

# IOWA DEPARTMENT OF NATURAL RESOURCES ADMINISTRATIVE CONSENT ORDER

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**IN THE MATTER OF:****CITY OF RIVERTON SEWER  
TREATMENT PLANT**

Riverton Iowa, Iowa  
NPDES Permit No. 3655001

**ADMINISTRATIVE  
CONSENT ORDER****NO. 2012-WW-17**

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**TO:** Carol Jennings  
City Clerk  
City of Riverton  
PO Box 147  
Riverton, IA 51650

## I. SUMMARY

This Administrative Consent Order (order) is entered into between the Iowa Department of Natural Resources (DNR) and the City of Riverton (Riverton) due to failure to timely apply to renew an NPDES permit. The order assesses an administrative penalty in the amount of \$800.

Any questions regarding this order should be directed to:

**Relating to technical requirements:**

Eric Wiklund, Environmental Specialist  
NPDES Section  
Iowa Department of Natural Resources  
502 East 9<sup>th</sup> Street  
Des Moines, Iowa 50319-0034  
Ph: 515-725-0313

**Mail payment of penalty to:**

Iowa Department of Natural Resources  
502 East 9<sup>th</sup> Street  
Des Moines, Iowa 50319-0034

**Relating to legal requirements:**

Jon C. Tack  
Attorney for DNR  
Iowa Department of Natural Resources  
502 East 9<sup>th</sup> Street  
Des Moines, Iowa 50319-0034  
Ph: 515- 281-8889

## II. JURISDICTION

This order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1, and the rules promulgated or permits issued

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pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. Riverton owns and operates a two-cell controlled discharge sewer treatment plant (STP) treating primarily domestic wastes from the City of Riverton. This facility was constructed in 2004 and operated pursuant to NPDES permit #3655001 issued on March 13, 2007. The NPDES permit expired on March 12, 2012 and has not been renewed.

2. The renewal application for the NPDES permit was required to be filed by 180 days prior to expiration of the NPDES permit or by September 14, 2011. This was a condition of the recently expired NPDES permit and a requirement under DNR rules. The DNR sent a renewal application form to the permit holder on January 28, 2011.

3. On April 4, 2012, a notice of violation letter was sent for failure to submit the completed renewal application. The DNR has not received a complete permit renewal application to date.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.186 prohibits the discharge of pollutants to waters of the state without or contrary to a permit from the DNR. Iowa Code section 455B.183 prohibits the construction or operation of disposal systems without or contrary to written permits from the DNR. Iowa Code section 455B.174 authorizes the Director to issue permits for the operation of a disposal system.

2. Iowa Code section 455B.171(5) defines "disposal system" as "a system for disposing of sewage, industrial waste, or other wastes, or for the use or disposal of sewage sludge." The term "includes sewer systems, treatment works, point sources, dispersal systems, and any systems designed for the usage or disposal of sewage sludge." Any discharge from the Riverton STP would fall within the definition of a disposal system.

3. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of disposal systems and discharge of pollutants into waters of the state. The Commission has done so at 567 IAC chapters 60–69. Subrule 62.1(1) prohibits the discharge of pollutants to waters of the state unless authorized by a permit from the DNR. Subrule 64.3(1) prohibits the operation of a wastewater disposal system unless authorized by a permit from the DNR and prohibits operation of any wastewater disposal system contrary to any condition of a permit.

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4. Department subrule 567 IAC 64.8(1) states that “[a]ny state NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance of the permit at least 180 days prior to the expiration of the permit.” The facts stated above demonstrate noncompliance with this provision.

5. The terms of this facility’s NPDES permit and the DNR subrule required submission of an application for NPDES permit renewal to the DNR no later than September 16, 2011. The DNR has not received a complete NPDES permit renewal application for this facility to date.

**V. ORDER**

THEREFORE, the DNR orders Riverton, and Riverton agrees, to comply with the following provisions in order to resolve this matter:

1. Riverton is required to submit a complete application for renewal of the NPDES permit within 60 days of receipt of this order.
2. Riverton is prohibited from any discharge from the Riverton STP until such time as a renewed NPDES permit has been issued except that discharge may be authorized by the DNR upon notice to the DNR that discharging is necessary to protect the integrity of the STP and the issuance of written authorization by DNR Field Office #4.
3. Riverton is hereby assessed and required to pay an administrative penalty of \$800 at the time of execution of this Order.

**VI. PENALTY**

Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision. Iowa Code section 455B.109 authorizes the Commission to establish a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with an administrative penalty of \$800.

**a. Economic Benefit.** Riverton has saved money by not allocating time and resources to the submission of the NPDES permit renewal application. A penalty in the amount of \$100 is assessed for this factor.

**b. Gravity of the Violation.** Maintaining compliance with water pollution control laws is a major program priority of the federal and state pollution control agencies.

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Failure to timely submit a renewal application for an NPDES permit and operation of a wastewater disposal system without an NPDES permit are serious violations. The amount of \$250 is assessed for this factor.

**c. Culpability.** The DNR sent a renewal application and a notice of violation letter to this facility advising it of its duty to timely submit its renewal application. Failure to submit the renewal application challenges the authority of the DNR and the integrity of the wastewater program. The amount of \$450 is assessed for this factor.

**VII. WAIVER OF APPEAL RIGHTS**

This order is entered into knowingly and with the consent of Riverton. For that reason Riverton waives its rights to appeal this order or any part thereof.

**VIII. NONCOMPLIANCE**

Failure to comply with this order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.175. Total compliance with all provisions of Section "V. Order" of this order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this order.

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Chuck Gys  
DIRECTOR  
Iowa Department of Natural Resources

Dated this 24<sup>th</sup> day of  
July, 2012.

Jon Buck  
CITY OF RIVERTON

Dated this 6 day of  
July, 2012

Field Office #4; Jon Tack; NPDES #3655001, I.B.(1)

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